

AN ORDINANCE

00-0711

BY: COUNCILMEMBER CLAIR MULLER

AN ORDINANCE WAIVING SECTION 16-21.004 OF THE CODE OF ORDINANCES-LAND DEVELOPMENT CODE TO ALLOW THE REPLACEMENT OF A SINGLE FAMILY RESIDENCE AT 427 VALLEY ROAD; AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY AGREEMENTS; AND FOR OTHER PURPOSES.

WHEREAS, Section 16-21.004 of the City of Atlanta Code of Ordinances permits construction of buildings or structures within a floodplain only under certain conditions, and provides that no structure may have a finished elevation less than 2 feet higher than the nearest base flood elevation and closer than 15 feet from the nearest base flood elevation; and

WHEREAS, the floodplain includes land shown on the Flood Hazard District maps for the City of Atlanta as defined in Code Section 16-21.002; and

WHEREAS, in Code Section 16-21.003 the floodplain also is defined to include areas of land not depicted on the Flood Hazard District maps but "where inundation is likely to occur during a base flood as determined from evidence of prior flooding verified by engineering studies;" and

WHEREAS, Valley Road lies within the Wolf Creek drainage basin, which is not designed as a floodplain on the Flood Hazard District maps but which is known to be an area of periodic flooding; and

WHEREAS, the residence previously located at 427 Valley Road, which was constructed prior to the adoption of Chapter 21-Flood Hazard Districts of the Land Development Code and which encroached into the 15-foot limitation, has been demolished; and

WHEREAS, the present owner of the lot at 427 Valley Road purchased the property in reliance on a survey that correctly stated the property "was not within a FEMA designated floodplain" and with the understanding that a new residence could be constructed on the lot; and

WHEREAS, code Section 16-21.004 and the criteria currently applied by the Department of Public Works would have allowed the remodeling or improvement of the previous residence but not construction of a new residence; and

WHEREAS, for this reason an application for a building permit for the proposed construction of a new single family residence was denied; and

WHEREAS, hydraulic and hydrological calculations performed by Shepherd D. Long, P.E. of Long Engineering, Inc. have demonstrated that the construction of the proposed

new residence as designed will not cause an increase in the flood elevation for other properties within the basin; and

WHEREAS, the inability to construct a new residence at 427 Valley Road will cause extreme hardship for the new owner; and

WHEREAS, because of the unique circumstances presented, the Council wishes to provide reasonable equitable relief to the owner without causing a hardship to other nearby property owners.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA as follows:

Section 1: Section 16-21.004 of the Code of Ordinances of the City of Atlanta is hereby waived to permit construction of a single-family residence at 427 Valley Road provided the following conditions are met:

- a) The property owner files with the Department of Public Works a set of detailed plans and specifications and an engineering study which establishes, to a reasonable degree of engineering certainty, that the total volume of displacement within the 100-year floodplain by the new residence as designed shall be no greater than the total volume displaced by the previous residence; and
- b) The property owner and the City enter into an agreement by which the property owner shall indemnify and hold harmless the City against any claims for property damage caused by drainage problems or flooding resulting from issuance of a building permit for the new residence.

Section 2: Approval of this ordinance shall not subject the City to any liability for any drainage problems or flooding that may occur at 427 Valley Road, nor at any contiguous property, nor at any property in the immediate vicinity, as a result of the construction of the new residence, and any costs or liability for such drainage problems or flooding shall be the responsibility of the property owner.

Section 3: The Mayor is authorized to execute all agreements necessary to implement this ordinance. Said agreements shall not be binding on the City, and the City shall incur no liability there under, until the agreements are approved by the Mayor and delivered to the property owner.